

Calendar No. 225

104TH CONGRESS
1ST SESSION

S. 1395

[Report No. 104-168]

A BILL

To amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes.

NOVEMBER 3, 1995

Read twice and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

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Mr. ROTH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intercity Passenger
5 Rail Trust Fund Act of 1995”.

1 **SEC. 2. INTERCITY PASSENGER RAIL TRUST FUND.**

2 (a) ESTABLISHMENT OF TRUST FUND.—Subchapter
3 A of chapter 98 of the Internal Revenue Code of 1986
4 (relating to trust fund code) is amended by adding at the
5 end the following new section:

6 **“SEC. 9512. INTERCITY PASSENGER RAIL TRUST FUND.**

7 “(a) CREATION OF TRUST FUND.—There is estab-
8 lished in the Treasury of the United States a trust fund
9 to be known as the ‘Intercity Passenger Rail Trust Fund’,
10 consisting of such amounts as may be transferred or cred-
11 ited to the Trust Fund as provided in section 9503(c)(7)
12 or section 9602(b).

13 “(b) EXPENDITURES FROM TRUST FUND.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), amounts in the Intercity Passenger Rail
16 Trust Fund shall be available, as provided by appro-
17 priation Acts, to finance qualified expenses of—

18 “(A) the National Railroad Passenger Cor-
19 poration, and

20 “(B) each eligible State, to the extent de-
21 termined under paragraph (3).

22 “(2) DIRECT SPENDING AMOUNTS.—The follow-
23 ing amounts in the Intercity Passenger Rail Trust
24 Fund are hereby appropriated to finance qualified
25 expenses:

“Fiscal year:	Amount Available:
1996	\$131,000,000
1997	663,000,000
1998	667,000,000
1999	670,000,000
2000	672,000,000.

1 “(3) MAXIMUM AMOUNT OF FUNDS TO ELIGI-
2 BLE STATES.—Each eligible State shall receive
3 under this subsection an amount equal to the lesser
4 of—

5 “(A) the State’s qualified expenses for the
6 fiscal year, or

7 “(B) the product of—

8 “(i) $\frac{1}{12}$ of 1 percent of the lesser of—

9 “(I) the aggregate amounts
10 transferred and credited to the Inter-
11 city Passenger Rail Trust Fund under
12 subsection (a) for such fiscal year, or

13 “(II) the aggregate amounts ap-
14 propriated from the Intercity Pas-
15 senger Rail Trust Fund under this
16 subsection for such fiscal year, and

17 “(ii) the number of months such State
18 was an eligible State in the preceding fiscal
19 year.

20 If the amount determined under subparagraph (B)
21 exceeds the amount under subparagraph (A) for any
22 fiscal year, the amount under subparagraph (B) for

1 the following fiscal year shall be increased by the
2 amount of such excess.

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) QUALIFIED EXPENSES.—The term ‘quali-
5 fied expenses’ means expenses incurred, with respect
6 to obligations made, after December 31, 1995, and
7 before October 1, 2000—

8 “(A) in the case of—

9 “(i) the National Railroad Passenger
10 Corporation, for capital improvements in
11 intercity passenger rail service, or

12 “(ii) an eligible State, for capital im-
13 provements in intercity rail service, and

14 “(B) certified by the Secretary of Trans-
15 portation as meeting the requirements of sub-
16 paragraph (A).

17 “(2) ELIGIBLE STATE.—The term ‘eligible
18 State’ means any State which does not receive inter-
19 city passenger rail service from the National Rail-
20 road Passenger Corporation.

21 “(d) TERMINATION.—The Secretary shall determine
22 and retain, not later than October 1, 2000, the amount
23 in the Intercity Passenger Rail Trust Fund necessary to
24 pay any outstanding qualified expenses, and shall transfer

1 any amount not so retained to the Mass Transit Account
 2 under section 9503(e).”

3 (b) TRANSFERS FROM HIGHWAY TRUST FUND.—
 4 Section 9503(c) of the Internal Revenue Code of 1986 (re-
 5 lating to expenditures from Highway Trust Fund) is
 6 amended by adding at the end the following new para-
 7 graph:

8 “(7) TRANSFERS FROM TRUST FUND FOR
 9 INTERCITY PASSENGER RAIL.—

10 “(A) IN GENERAL.—The Secretary shall
 11 transfer from time to time from the Highway
 12 Trust Fund to the Intercity Passenger Rail
 13 Trust Fund under section 9512 the intercity
 14 passenger rail portion of the amounts appro-
 15 priated to the Highway Trust Fund under sub-
 16 section (b) which are attributable to taxes
 17 under sections 4041 and 4081 imposed after
 18 December 31, 1995, and before October 1,
 19 2000.

20 “(B) INTERCITY PASSENGER RAIL POR-
 21 TION.—For purposes of subparagraph (A), the
 22 term ‘intercity passenger rail portion’ means
 23 the amount—

24 “(i) determined at the rate of 0.5 cent
 25 for each gallon with respect to which tax

was imposed under section 4041 or 4081,
and

“(ii) reduced (but not below zero) by
the amount by which—

“(I) the outlays of the Mass
Transit Account for the fiscal year
with respect to which such tax was
imposed, as estimated by the Sec-
retary, exceed

“(II) the available funds in the
Mass Transit Account for such fiscal
year (as so estimated).”

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(e)(2) of the Internal Revenue
Code of 1986 (relating to transfers to mass transit
account) is amended by striking “4081.” and insert-
ing “4081 (for the period beginning after December
31, 1995, and ending before October 1, 2000, an
amount determined at the rate of 1.5 cents for each
such gallon, increased by the amount described in
subsection (c)(7)(B)(ii)).”.

(2) The table of sections for subchapter A of
chapter 98 of such Code (relating to trust fund
code) is amended by adding at the end the following
new item:

“Sec. 9512. Intercity Passenger Rail Trust Fund.”

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply with respect to taxes imposed after
 3 December 31, 1995.

4 **SEC. 3. DENIAL OF DEDUCTION FOR INTEREST ON LOANS**
 5 **WITH RESPECT TO COMPANY-OWNED INSUR-**
 6 **ANCE.**

7 (a) IN GENERAL.—Paragraph (4) of section 264(a)
 8 of the Internal Revenue Code of 1986 (relating to certain
 9 amounts paid in connection with insurance contracts) is
 10 amended—

11 (1) by inserting “, or any endowment or annu-
 12 ity contracts owned by the taxpayer covering any in-
 13 dividual,” after “the life of any individual”, and

14 (2) by striking all that follows “carried on by
 15 the taxpayer” and inserting a period.

16 (b) EXCEPTION FOR CONTRACTS RELATING TO KEY
 17 PERSONS; PERMISSIBLE INTEREST RATES.—Section 264
 18 of the Internal Revenue Code of 1986 is amended—

19 (1) by striking “Any” in subsection (a)(4) and
 20 inserting “Except as provided in subsection (d),
 21 any”, and

22 (2) by adding at the end the following new sub-
 23 section:

24 “(d) SPECIAL RULES FOR APPLICATION OF SUB-
 25 SECTION (a)(4).—

1 “(1) EXCEPTION FOR KEY PERSONS.—Sub-
2 section (a)(4) shall not apply to any interest paid or
3 accrued on any indebtedness with respect to policies
4 or contracts covering an individual who is a key per-
5 son to the extent that the aggregate amount of such
6 indebtedness with respect to policies and contracts
7 covering such individual does not exceed \$50,000.

8 “(2) INTEREST RATE CAP ON KEY PERSONS
9 AND PRE-1986 CONTRACTS.—No deduction shall be
10 allowed by reason of paragraph (1) or the last sen-
11 tence of subsection (a) with respect to interest paid
12 or accrued for any month to the extent the amount
13 of such interest exceeds the amount which would
14 have been determined if the rate of interest for such
15 month were the rate of interest described as Moody’s
16 Corporate Bond Yield Average-Monthly Average
17 Corporates as published by Moody’s Investors Serv-
18 ice, Inc., or any successor thereto, for such month.

19 “(3) KEY PERSON.—For purposes of paragraph
20 (1), the term ‘key person’ means an officer or 20-
21 percent owner, except that the number of individuals
22 who may be treated as key persons with respect to
23 any taxpayer shall not exceed the greater of—

24 “(A) 5 individuals, or

1 “(B) the lesser of 5 percent of the total of-
2 ficers and employees of the taxpayer or 25 indi-
3 viduals.

4 “(4) 20-PERCENT OWNER.—For purposes of
5 this subsection, the term ‘20-percent owner’
6 means—

7 “(A) if the taxpayer is a corporation, any
8 person who owns directly 20 percent or more of
9 the outstanding stock of the corporation or
10 stock possessing 20 percent or more of the total
11 combined voting power of all stock of the cor-
12 poration, or

13 “(B) if the taxpayer is not a corporation,
14 any person who owns 20 percent or more of the
15 capital or profits interest in the employer.

16 “(5) AGGREGATION RULES.—

17 “(A) IN GENERAL.—For purposes of para-
18 graph (4)(A) and applying the \$50,000 limita-
19 tion in paragraph (1)—

20 “(i) all members of a controlled group
21 shall be treated as 1 taxpayer, and

22 “(ii) such limitation shall be allocated
23 among the members of such group in such
24 manner as the Secretary may prescribe.

1 “(B) CONTROLLED GROUP.—For purposes
2 of this paragraph, all persons treated as a sin-
3 gle employer under subsection (a) or (b) of sec-
4 tion 52 or subsection (m) or (o) of section 414
5 shall be treated as members of a controlled
6 group.”

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to interest paid or accrued
10 after December 31, 1995.

11 (2) TRANSITION RULE FOR EXISTING INDEBT-
12 EDNESS.—

13 (A) IN GENERAL.—In the case of indebted-
14 ness incurred before January 1, 1996, the
15 amendments made by this section shall not
16 apply to qualified interest paid or accrued on
17 such indebtedness after October 13, 1995, and
18 before January 1, 2001.

19 (B) QUALIFIED INTEREST.—For purposes
20 of subparagraph (A), the qualified interest with
21 respect to any indebtedness for any month is
22 the amount of interest which would be paid or
23 accrued for such month on such indebtedness if
24 the lesser of the following rates of interest were
25 used for such month:

1 (i) The rate of interest specified under
 2 the terms of the indebtedness as in effect
 3 on October 13, 1995 (and without regard
 4 to modification of such terms after such
 5 date).

6 (ii) The applicable percentage rate of
 7 interest described as Moody's Corporate
 8 Bond Yield Average-Monthly Average
 9 Corporates as published by Moody's Inves-
 10 tors Service, Inc., or any successor thereto,
 11 for such month.

12 (C) APPLICABLE PERCENTAGE.—For pur-
 13 poses of subparagraph (B), the applicable per-
 14 centage is as follows:

For calendar year:	The percentage is:
1995 or 1996	100 percent
1997	95 percent
1998	90 percent
1999	85 percent
2000	80 percent.

15 (3) SPECIAL RULE FOR GRANDFATHERED CON-
 16 TRACTS.—This section shall not apply to any con-
 17 tract purchased on or before June 20, 1986, except
 18 that—

19 (A) paragraph (2) shall apply to interest
 20 on indebtedness incurred in connection with
 21 such contract which is paid or accrued after Oc-

1 tober 13, 1995, and before January 1, 1996,
2 and

3 (B) section 264(d)(2) of the Internal Reve-
4 nue Code of 1986 (as added by subsection (b))
5 shall apply to such interest paid or accrued
6 after December 31, 1995.

7 (d) SPREAD OF INCOME INCLUSION ON SURRENDER,
8 ETC. OF CONTRACTS.—

9 (1) IN GENERAL.—If any amount is received
10 under any life insurance policy or endowment or an-
11 nuity contract described in paragraph (4) of section
12 264(a) of the Internal Revenue Code of 1986—

13 (A) on the complete surrender, redemption,
14 or maturity of such policy or contract during
15 calendar year 1996, 1997, 1998, 1999, 2000,
16 or 2001, or

17 (B) in full discharge during any such cal-
18 endar year of the obligation under the policy or
19 contract which is in the nature of a refund of
20 the consideration paid for the policy or con-
21 tract,

22 then (in lieu of any other inclusion in gross income)
23 such amount shall be includible in gross income rat-
24 ably over the 4-taxable year period beginning with
25 the taxable year such amount would (but for this

1 paragraph) be includible. The preceding sentence
2 shall only apply to the extent the amount is includ-
3 ible in gross income for the taxable year in which
4 the event described in subparagraph (A) or (B) oc-
5 curs.

6 (2) SPECIAL RULES FOR APPLYING SECTION
7 264.—A contract shall not be treated—

8 (A) as failing to meet the requirement of
9 section 264(c)(1) of the Internal Revenue Code
10 of 1986, or

11 (B) as a single premium contract under
12 section 264(b)(1) of such Code,

13 solely by reason of an occurrence described in sub-
14 paragraph (A) or (B) of paragraph (1) of this sub-
15 section or solely by reason of no additional pre-
16 miums being received under the contract by reason
17 of a lapse occurring after October 13, 1995.

18 (3) SPECIAL RULE FOR DEFERRED ACQUISI-
19 TION COSTS.—In the case of the occurrence of any
20 event described in subparagraph (A) or (B) of para-
21 graph (1) of this subsection with respect to any pol-
22 icy or contract—

23 (A) section 848 of the Internal Revenue
24 Code of 1986 shall not apply to the
25 unamortized balance (if any) of the specified

1 policy acquisition expenses attributable to such
2 policy or contract immediately before the insur-
3 ance company's taxable year in which such
4 event occurs, and

5 (B) there shall be allowed as a deduction
6 to such company for such taxable year under
7 chapter 1 of such Code an amount equal to
8 such unamortized balance.